

**REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Office Action dated February 21, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-22 are pending in the Application. By means of the present amendment, claims 1-22 are amended including for better conformance to U.S. practice, such as amending dependent claims to begin with "The" as opposed to "A". By these amendments, claims 1-22 are not amended to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the title is objected to for not being descriptive. A new title is submitted herewith which is clearly indicative of the invention to which the claims are directed. Accordingly, it is respectfully submitted that the title is now in proper form and an indication to that effect is respectfully requested.

In the Office Action, claim 21 and 22 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter and as allegedly being hybrid claims. Applicants respectfully disagree with and explicitly traverse these grounds for rejecting claims 21 and 22. It is the Applicants' position that the claims require statutory subject matter and are in a form that is proper under PCT rules. However, in the interest of furthering the prosecution of this matter, Applicants have elected to amend the claims to more clearly state the invention. Specifically, Applicants have amended claim 21 to be in independent form and to more clearly recite "Program code stored on a carrier computer readable medium ..." Claim 22 is amended as mentioned above to be in proper dependent format reciting "The system of claim 17, comprising a database ..." Clearly, claims 21 and 22 require statutory subject matter and are in proper form. Accordingly, it is respectfully requested that the amendment to the claims be entered and that the rejection of claims 21 and 22 under 35 U.S.C. §101 be withdrawn.

In the Office Action, claims 1-7, 9-10, and 16-22 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over U.S. Patent No. 6,201,176 to Yourlo ("Yourlo") in view of U.S. Patent No.

6,355,869 to Mitton ("Mitton"). Claim 8 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Yourlo in view of Mitton in further view of U.S. Patent No. 5,913,259 to Grubb ("Grubb"). Claims 11-14 are rejected under 35 U.S.C. §103(a) as allegedly being obvious over Yourlo in view of Mitton in further view of U.S. Patent No. 6,052,657 to Yamron ("Yamron"). Claim 15 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over Yourlo in view of Mitton in further view of U.S. Patent No. 6,308,154 to Williams ("Williams"). It is respectfully submitted that claims 1-22 are allowable over Yourlo in view of Mitton alone and in view of any combination of Grubb, Yamron and Williams for at least the following reasons.

Yourlo shows a system of querying a music database utilizing a music input. While the music database includes music pieces that are classified and stored in the database (see, col. 4, lines 19-26), the result of the music query is a retrieved music piece (see, particularly, col. 4, lines 25-26) that has a minimum distance between database features and features of the music input. It is noted that FIG. 1 clearly shows a music query 104 and a music output 106. Further, it is alleged that Yourlo shows generating "a time ordered table of dramatic parameters according to the

extracted features" as recited in the claims. While Col. 6, lines 19-42 are cited for support of this feature, it is respectfully submitted that reliance on these sections of Yourlo or any sections for that matter are misplaced. Yourlo merely sums frequency component amplitudes of time windows of the music to produce a reduced data size representation of the music input. The summed frequency component amplitudes are merely features that are extracted from the music input which are not the dramatic parameters determined according to the extracted features as recited in the claims. Mitton is cited for allegedly showing another element of the claim and as such, does nothing to cure the deficiencies in Yourlo.

Based on the foregoing, it is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Yourlo in view of Mitton. For example, Yourlo in view of Mitton does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "generating a time ordered table of dramatic parameters according to the extracted features, obtaining media fragments at least in part in dependence on the table of dramatic parameters, wherein the media fragments are not audio media fragments and wherein the media

fragments are unrelated to the audio signal prior to the obtaining act, and outputting said media fragments" as recited in claim 1, and as similarly recited in claim 17. Each of Grubb, Yamron and Williams are introduced for allegedly showing elements of the dependent claims and as such, do nothing to cure the deficiencies in each of Yourlo and Mitton.

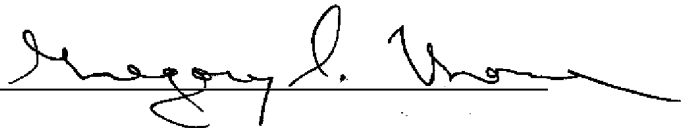
Based on the foregoing, the Applicants respectfully submit that independent claims 1 and 17 are patentable over Yourlo in view of Mitton and notice to this effect is earnestly solicited. Claims 2-16 and 18-22 respectively depend from one of claims 1 and 17 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position,

should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398  
Attorney for Applicant(s)  
May 13, 2008

**THORNE & HALAJIAN, LLP**  
Applied Technology Center  
111 West Main Street  
Bay Shore, NY 11706  
Tel: (631) 665-5139  
Fax: (631) 665-5101